

# THE GREEN BAG

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from so simple a method and the author himself does not believe that his processes have sufficiently developed to justify their official use at present. He admits, however, that the method he uses is correct, and that only the certainty of frequent experiment is needed to make the detections as accurate as to warrant displacing our present cruder system. As we have previously called especial attention to these striking articles we feel that the present one deserves thoughtful consideration. We hope to be able to publish hereafter some of the further articles which the author is preparing upon other branches of his studies.

In the October Law Notes appears an article by Mr. Charles C. Moore under the title "Yellow Psychology," which is a sarcastic criticism of Prof. Munsterberg's article, to which the learned professor very effectively replies in the November issue. He regrets that if the judges and lawyers have known so much more about this subject than the experimental psychologists they have not relieved him of the labor of his exhaustive experiments.

#### INTERNATIONAL PRACTICE.

At the recent conference of American Republics it was proposed that admission to the bar in one country should be the equivalent of educational requirements imposed as a condition upon admission to the bar in another country. It was not, however, intended to eliminate an examination for admission if required of its own citizens by such country. Our representatives called attention to the difficulty of thus binding our several states and the results of the discussion are not as yet sufficiently definite to warrant extended comment, but the fact that lawyers of the different American jurisdictions are considering the possibility of greater freedom of intercourse is an interesting sign of the times. It emphasizes the growing importance of litigation arising out of our increased trade with our southern neighbors.

#### THE UNWRITTEN LAW.

The following editorial from the London *Law Journal* is interesting in view of the approaching second trial of Thaw.

"We have heard a great deal of late from

America of the 'unwritten law'; but the theory has been very much in the air. Now it has received actual recognition in the acquittal of ex-Judge Loring by a Californian jury. Put briefly, the case comes to this: that a father who believes, rightly or wrongly, that his daughter has been violated is justified in killing the supposed violator. This is the particular application of the 'law.' The general principle is wider, and seems to be that in certain classes of wrongs — those touching personal or family honour — the aggrieved party may, if he deems the reparation given by the law inadequate, take the redress of his grievance into his own hands. The same idea has undoubtedly had a place in the history of our own law. A husband who takes the adulterer *flagrante delicto* might — perhaps may — lawfully slay him, and, though our law in theory condemned duelling, the man who did not vindicate his honour or that of his family by sending or accepting a challenge had to suffer social excommunication. What is important to note, however, is that these sentiments were survivals — survivals from a primitive state of society. What we to-day call crimes — theft, assault, robbery, rape — were originally, as Sir H. Maine has shown, regarded merely as private wrongs, which it was the business of the individual or his family or his clan to revenge. This law-licensed right of revenge was in time waived for a composition. Afterwards the state compelled acceptance of the composition, and fixed a regular tariff, and later on a code of punishment, for injuries; but some wrongs rankled so deeply that the sufferer still held to the old rule of revenge, and society tolerated his doing so. So strong and widespread is the sympathy with *crimes passionelles* even to-day among the Latin races, that it goes far to defeat the efficacy of trial by jury. 'Extenuating circumstances' are with us the equivalent of this sympathy. Something, no doubt, must be conceded to human nature, but the object of law is, and always has been, to curb the primitive instinct of revenge; without such a curb the world would, as Sidney Smith said, be a 'wild waste of passion.' Whatever gives a sanction to this 'wild justice,' though under the guise of honour, must be regarded as a 'throwing back' to the ages of barbarism."